

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JAMES W. BINNEY,	:	CIVIL ACTION NO.:
	:	
<i>Plaintiff</i>	:	
v.	:	
	:	
THE PENNSYLVANIA STATE UNIVERSITY,	:	
	:	
<i>Defendant</i>	:	JURY TRIAL DEMANDED

COMPLAINT AND JURY DEMAND

I. PRELIMINARY STATEMENT

1. This is an action for an award of damages, attorneys’ fees and other relief on behalf of Plaintiff, James W. Binney (“Plaintiff Binney”), an employee of Defendant, The Pennsylvania State University (“Defendant”), who has been harmed by the Defendant’s discriminatory employment practices, ultimately resulting in the Defendant’s failure to hire Plaintiff Binney.

2. This action is brought under the Age Discrimination in Employment Act, 29 U.S.C. §621 et seq. (“ADEA”).

II. JURISDICTION AND VENUE

3. The original jurisdiction of this Court is invoked pursuant to 28 U.S.C. §1331 and the claims are substantively based on the ADEA.

4. Venue is proper in this judicial district pursuant to 28 U.S.C. §1391 as a substantial part of the events or omissions giving rise to Plaintiff Binney’s claims occurred in this judicial district.

5. All conditions precedent to the institution of this suit have been fulfilled. On May 13, 2021, a Notice of Right to Sue was issued by the United States Equal Employment Opportunity Commission (“EEOC”), and this action has been filed within ninety (90) days of receipt of said notice.

6. Plaintiff Binney has satisfied all other jurisdictional prerequisites to the maintenance of this action.

III. PARTIES

7. Plaintiff, James W. Binney (“Plaintiff Binney”), is a fifty-eight (58) year old citizen of the Commonwealth of Pennsylvania, residing therein at 2603 Tall Cedar Circle, State College, Pennsylvania 16803.

8. Defendant, The Pennsylvania State University (“Defendant”), is a public University organized and existing under the laws of the Commonwealth of Pennsylvania, maintaining a place of business located at 201 Old Main, University Park, Pennsylvania 16802.

9. At all times relevant hereto, the Defendant acted through its agents, servants and employees, who acted within the scope of their authority, course of employment, and under the direct control of the Defendant.

10. At all times material herein, the Defendant has been a “person” and “employer” as defined under the ADEA, and has been, and is, subject to the provisions of said Act.

III. STATEMENT OF FACTS

11. Plaintiff Binney is a fifty-eight (58) year old scholar and educator in the field of Political Science. In 1986, Plaintiff Binney obtained a Bachelor of Science in Hotel and Restaurant Management from The Pennsylvania State University. In 1989, Plaintiff Binney obtained a Bachelor of Arts in Political Science from the University of North Carolina at Wilmington. Plaintiff Binney earned a Master of Arts in International Relations Theory and Comparative Politics from the University of Kentucky in 2000. In furtherance of his work in said field, in 2003, Plaintiff Binney earned his PhD in International Relations Theory and Comparative Politics from the University of Kentucky, and wrote his dissertation on “Foreign Aid, Institution Building, and Sustainability: A Case Study of the Kazakhstan Institute of Management, Economics, and Strategic Research.” In 2017, Plaintiff Binney earned a Master of Education in Higher Education with an emphasis on student engagement from The Pennsylvania University. In connection with his expertise, Plaintiff Binney has taught Political Science courses at Northern Kentucky University, served as a Research Fellow at the Woodrow Wilson International Center for Scholars and the Kennan Institute for Advanced Russian Studies, and held the position of Program Director of the Kazakhstan Institute of Management, Economics, and Strategic Research’s Executive MBA Program.

12. Moreover, from 2005 through the present, Plaintiff Binney has served as a Lecturer at Norwich University and instructed numerous courses, including Economics and International Systems, International Development, International Relations Theory, and Global Commerce and the International System.

13. Plaintiff Binney commenced employment with the Defendant as a Full-Time Assistant Teaching Professor in or about August of 2008. Thereafter, until in or about May of 2018, the Defendant employed Plaintiff Binney as a Non-Tenured Lecturer in the Department of Political Science, the World Campus, and the Fayette Campus through one year fixed-term contracts.

14. During his tenure with the Defendant, Plaintiff Binney has instructed thousands of students in the following courses: Introduction to American Government, Political Advertising, American Government, Public Policy and Evaluation, Comparative Politics, Independent Studies, Racial Politics, Politics of Developing Nations, American Public Policy, Political Ideologies, Comparative Politics of Western Europe, and Campaigns and Elections. Further, Plaintiff Binney has served in the role of Academic Advisor for undergraduate students in the Division of Undergraduate Studies/New Student Orientation. Plaintiff Binney has received abundant positive reviews from students and received praise through peer teaching evaluations throughout his tenure with the Defendant.

15. Plaintiff Binney received his final full-time contract from the Defendant for the 2017-2018 academic year. Following the expiration of said one-year fixed term contract, on May 20, 2018, Lee Ann Banaszak (“Banaszak”), Political Science Department Head, declined to renew Plaintiff Binney’s employment in favor of significantly younger, less experienced Lecturers.

16. Plaintiff Binney alleges that subsequent to the completion of his final full-time contract, the Defendant has refused to hire him to teach as a Non-Tenured Lecturer

for a number of courses and has instead hired significantly younger, less qualified, less experienced individuals to serve in those posts.

17. By way of background, the Defendant's Political Science Department appoints Non-Tenured Lecturers both directly and through a faculty pool selection system. Non-Tenured Lecturers with existing contracts may apply directly for positions and/or elect to enter the pool in order to be considered for courses as they arise. The Defendant considers both direct applications and pool candidates in filling Non-Tenured Lecturer positions for courses each semester.

18. Despite Plaintiff Binney's exemplary qualifications, the Defendant has only afforded him the opportunity to teach Introduction to American National Government, Political Advertising, and American Politics: Principles, Processes, and Powers after his final full-time contract expired in May of 2018. By virtue of his instruction of said courses, Plaintiff Binney entered the Defendant's faculty pool selection system in or about May of 2018 and has remained in the pool through the present date.

19. Thereafter, the Defendant hired Nicole Morford ("Morford") age forty-six (46), a significantly younger, less qualified, less experienced individual in the position of Non-Tenured Lecturer for the summer 2019, fall 2019, and spring 2020 semesters' Government and Politics of Western Europe courses. The Defendant also hired Morford in lieu of Plaintiff Binney to teach the spring 2020 semester's Comparative Politics of Western Europe course. Plaintiff Binney's experience teaching comparative politics courses for the Defendant exceeds Morford's by four (4) years. Additionally, Plaintiff Binney has greater prior experience teaching Comparative Politics of Western Europe

than Morford and received exemplary reviews from his students in connection with his teaching of said course.

20. Further, the Defendant hired Gregory Kruzcek (“Kruzcek”), age thirty-one (31), a significantly younger, less qualified, less experienced individual in the position of Non-Tenured Lecturer for the fall 2019 and spring 2020 semesters’ International Relations Theory courses. The Defendant also hired Kruzcek in lieu of Plaintiff Binney for the fall 2019 and spring 2020 semesters’ International Relations in the Middle East courses. Defendant also selected Kruzcek to instruct Independent Studies in the fall 2019 and spring 2020 semesters. Plaintiff Binney’s tenure as a Non-Tenured Lecturer exceeds Kruzcek’s by more than a decade, as Kruzcek did not earn his PhD until 2019. Further, Kruzcek possesses no experience in remote instruction, as compared to Plaintiff Binney who has taught numerous courses online for the Defendant’s World Campus as well as for Norwich University.

21. As further age discrimination, the Defendant hired Elizabeth Pertner (“Pertner”), age thirty-three (33), a significantly younger, less qualified, less experienced individual in the position of Non-Tenured Lecturer for a section of the fall 2019 semester’s Comparing Politics Around the Globe course. At the time of the Defendant’s selection of Pertner for said course, Pertner had no experience in remote instruction. Moreover, as of the date of Pertner’s selection, Plaintiff Binney had taught many more courses in the field of Comparative Politics than Pertner.

22. The Defendant hired Qing Deng (“Deng”), age thirty-five (35), a significantly younger, less qualified, less experienced individual in the position of Non-Tenured Lecturer for the other section of the fall 2019 semester’s Comparing Politics Around the Globe course. Significantly, Deng earned her PhD in 2021 and has no prior experience as a primary, Non-Tenured Lecturer, whereas Plaintiff Binney has taught in the Defendant’s Political Science Department in said capacity since 2008. Additionally, Deng had no experience in remote instruction at the time the Defendant selected her in lieu of Plaintiff Binney. Moreover, as of the date of Deng’s selection, Plaintiff Binney had taught many more courses in the field of comparative politics than Deng.

23. The Defendant hired Joseph Phillips (“Phillips”), age twenty-seven (27), a significantly younger, less qualified, less experienced individual in the position of Non-Tenured Lecturer for the fall 2019 semester’s Scientific Study of Politics course. Significantly, Phillips earned his PhD in 2021 and has no prior experience as a primary, non-tenured Lecturer, whereas Plaintiff Binney has taught in the Defendant’s Political Science Department in said capacity since 2008. Additionally, Phillips had no experience in remote instruction at the time the Defendant selected him in lieu of Plaintiff Binney.

24. Through the present, the Defendant continues to hire significantly younger, less qualified, less experienced individuals in Non-Tenured Lecturer positions in its Political Science Department.

25. Plaintiff Binney believes and avers that no legitimate reason existed for the Defendant's serial failures to hire him in the position of Non-Tenured Lecturer for the aforesaid various Political Science courses and that the Defendant has failed to do so solely based on his age (58).

COUNT I
**(ADEA - Age Discrimination - Failure to Hire - Summer 2019 Government and
Politics of Western Europe)**
Plaintiff Binney v. the Defendant

26. Plaintiff Binney incorporates by reference paragraphs 1 through 25 of this Complaint as though fully set forth at length herein.

27. The actions of the Defendant, through its agents, servants and employees, in subjecting Plaintiff Binney to discrimination based on his age, ultimately resulting in the Defendant's failure to hire Plaintiff Binney in the position of Non-Tenured Lecturer for the summer 2019 Government and Politics of Western Europe course and selection of Nicole Morford, a significantly younger, less qualified, less experienced individual, constituted a violation of the ADEA.

28. As a direct result of the aforesaid unlawful discriminatory employment practices engaged in by the Defendant in violation of the ADEA, Plaintiff Binney sustained permanent and irreparable harm, resulting in a loss of earnings, plus the value of certain benefits, plus loss of future earning power, plus back pay, and front pay, and interest due thereon.

COUNT II

**(ADEA - Age Discrimination - Failure to Hire - Fall 2019 Government and Politics
of Western Europe)**

Plaintiff Binney v. the Defendant

29. Plaintiff Binney incorporates by reference paragraphs 1 through 28 of this Complaint as though fully set forth at length herein.

30. The actions of the Defendant, through its agents, servants and employees, in subjecting Plaintiff Binney to discrimination based on his age, ultimately resulting in the Defendant's failure to hire Plaintiff Binney in the position of Non-Tenured Lecturer for the fall 2019 Government and Politics of Western Europe course and selection of Nicole Morford, a significantly younger, less qualified, less experienced individual, constituted a violation of the ADEA.

31. As a direct result of the aforesaid unlawful discriminatory employment practices engaged in by the Defendant in violation of the ADEA, Plaintiff Binney sustained permanent and irreparable harm, resulting in a loss of earnings, plus the value of certain benefits, plus loss of future earning power, plus back pay, and front pay, and interest due thereon.

COUNT III

**(ADEA - Age Discrimination - Failure to Hire – Spring 2020 Government and
Politics of Western Europe)**

Plaintiff Binney v. the Defendant

32. Plaintiff Binney incorporates by reference paragraphs 1 through 31 of this Complaint as though fully set forth at length herein.

33. The actions of the Defendant, through its agents, servants and employees, in subjecting Plaintiff Binney to discrimination based on his age, ultimately

resulting in the Defendant's failure to hire Plaintiff Binney in the position of Non-Tenured Lecturer for the spring 2020 Government and Politics of Western Europe course and selection of Nicole Morford, a significantly younger, less qualified, less experienced individual, constituted a violation of the ADEA.

34. As a direct result of the aforesaid unlawful discriminatory employment practices engaged in by the Defendant in violation of the ADEA, Plaintiff Binney sustained permanent and irreparable harm, resulting in a loss of earnings, plus the value of certain benefits, plus loss of future earning power, plus back pay, and front pay, and interest due thereon.

COUNT IV
**(ADEA - Age Discrimination - Failure to Hire - Fall 2019 Comparative Politics
of Western Europe)**
Plaintiff Binney v. the Defendant

35. Plaintiff Binney incorporates by reference paragraphs 1 through 34 of this Complaint as though fully set forth at length herein.

36. The actions of the Defendant, through its agents, servants and employees, in subjecting Plaintiff Binney to discrimination based on his age, ultimately resulting in the Defendant's failure to hire Plaintiff Binney in the position of Non-Tenured Lecturer for the fall 2019 Comparative Politics of Western Europe course and selection of Nicole Morford, a significantly younger, less qualified, less experienced individual, constituted a violation of the ADEA.

37. As a direct result of the aforesaid unlawful discriminatory employment practices engaged in by the Defendant in violation of the ADEA, Plaintiff Binney sustained permanent and irreparable harm, resulting in a loss of earnings, plus the value of certain benefits, plus loss of future earning power, plus back pay, and front pay, and interest due thereon.

COUNT V
(ADEA - Age Discrimination - Failure to Hire - Fall 2019 International Relations Theory)
Plaintiff Binney v. the Defendant

38. Plaintiff Binney incorporates by reference paragraphs 1 through 37 of this Complaint as though fully set forth at length herein.

39. The actions of the Defendant, through its agents, servants and employees, in subjecting Plaintiff Binney to discrimination based on his age, ultimately resulting in the Defendant's failure to hire Plaintiff Binney in the position of Non-Tenured Lecturer for the fall 2019 International Relations Theory course and selection of Gregory Kruzcek, a significantly younger, less qualified, less experienced individual, constituted a violation of the ADEA.

40. As a direct result of the aforesaid unlawful discriminatory employment practices engaged in by the Defendant in violation of the ADEA, Plaintiff Binney sustained permanent and irreparable harm, resulting in a loss of earnings, plus the value of certain benefits, plus loss of future earning power, plus back pay, and front pay, and interest due thereon.

COUNT VI

(ADEA - Age Discrimination - Failure to Hire – Spring 2020 International Relations Theory)

Plaintiff Binney v. the Defendant

41. Plaintiff Binney incorporates by reference paragraphs 1 through 40 of this Complaint as though fully set forth at length herein.

42. The actions of the Defendant, through its agents, servants and employees, in subjecting Plaintiff Binney to discrimination based on his age, ultimately resulting in the Defendant's failure to hire Plaintiff Binney in the position of Non-Tenured Lecturer for the spring 2020 International Relations Theory course and selection of Gregory Kruzcek, a significantly younger, less qualified, less experienced individual, constituted a violation of the ADEA.

43. As a direct result of the aforesaid unlawful discriminatory employment practices engaged in by the Defendant in violation of the ADEA, Plaintiff Binney sustained permanent and irreparable harm, resulting in a loss of earnings, plus the value of certain benefits, plus loss of future earning power, plus back pay, and front pay, and interest due thereon.

COUNT VII

(ADEA - Age Discrimination - Failure to Hire - Fall 2019 International Relations in the Middle East)

Plaintiff Binney v. the Defendant

44. Plaintiff Binney incorporates by reference paragraphs 1 through 43 of this Complaint as though fully set forth at length herein.

45. The actions of the Defendant, through its agents, servants and employees, in subjecting Plaintiff Binney to discrimination based on his age, ultimately resulting

in the Defendant's failure to hire Plaintiff Binney in the position of Non-Tenured Lecturer for the fall 2019 International Relations in the Middle East course and selection of Gregory Kruzcek, a significantly younger, less qualified, less experienced individual, constituted a violation of the ADEA.

46. As a direct result of the aforesaid unlawful discriminatory employment practices engaged in by the Defendant in violation of the ADEA, Plaintiff Binney sustained permanent and irreparable harm, resulting in a loss of earnings, plus the value of certain benefits, plus loss of future earning power, plus back pay, and front pay, and interest due thereon.

COUNT VIII
**(ADEA - Age Discrimination - Failure to Hire – Spring 2020 International Relations
in the Middle East)**
Plaintiff Binney v. the Defendant

47. Plaintiff Binney incorporates by reference paragraphs 1 through 46 of this Complaint as though fully set forth at length herein.

48. The actions of the Defendant, through its agents, servants and employees, in subjecting Plaintiff Binney to discrimination based on his age, ultimately resulting in the Defendant's failure to hire Plaintiff Binney in the position of Non-Tenured Lecturer for the spring 2020 International Relations in the Middle East course and selection of Gregory Kruzcek, a significantly younger, less qualified, less experienced individual, constituted a violation of the ADEA.

49. As a direct result of the aforesaid unlawful discriminatory employment practices engaged in by the Defendant in violation of the ADEA, Plaintiff Binney

sustained permanent and irreparable harm, resulting in a loss of earnings, plus the value of certain benefits, plus loss of future earning power, plus back pay, and front pay, and interest due thereon.

COUNT IX
(ADEA - Age Discrimination - Failure to Hire – Fall 2019 Independent Studies)
Plaintiff Binney v. the Defendant

50. Plaintiff Binney incorporates by reference paragraphs 1 through 49 of this Complaint as though fully set forth at length herein.

51. The actions of the Defendant, through its agents, servants and employees, in subjecting Plaintiff Binney to discrimination based on his age, ultimately resulting in the Defendant's failure to hire Plaintiff Binney in the position of Non-Tenured Lecturer for the fall 2019 Independent Studies course and selection of Gregory Kruzcek, a significantly younger, less qualified, less experienced individual, constituted a violation of the ADEA.

52. As a direct result of the aforesaid unlawful discriminatory employment practices engaged in by the Defendant in violation of the ADEA, Plaintiff Binney sustained permanent and irreparable harm, resulting in a loss of earnings, plus the value of certain benefits, plus loss of future earning power, plus back pay, and front pay, and interest due thereon.

COUNT X
(ADEA - Age Discrimination - Failure to Hire – Spring 2020 Independent Studies)
Plaintiff Binney v. the Defendant

53. Plaintiff Binney incorporates by reference paragraphs 1 through 52 of this Complaint as though fully set forth at length herein.

54. The actions of the Defendant, through its agents, servants and employees, in subjecting Plaintiff Binney to discrimination based on his age, ultimately resulting in the Defendant's failure to hire Plaintiff Binney in the position of Non-Tenured Lecturer for the spring 2020 Independent Studies course and selection of Gregory Kruzcek, a significantly younger, less qualified, less experienced individual, constituted a violation of the ADEA.

55. As a direct result of the aforesaid unlawful discriminatory employment practices engaged in by the Defendant in violation of the ADEA, Plaintiff Binney sustained permanent and irreparable harm, resulting in a loss of earnings, plus the value of certain benefits, plus loss of future earning power, plus back pay, and front pay, and interest due thereon.

COUNT XI
(ADEA - Age Discrimination - Failure to Hire – Fall 2019 Comparing Politics
Around the Globe)
Plaintiff Binney v. the Defendant

56. Plaintiff Binney incorporates by reference paragraphs 1 through 55 of this Complaint as though fully set forth at length herein.

57. The actions of the Defendant, through its agents, servants and employees, in subjecting Plaintiff Binney to discrimination based on his age, ultimately resulting in the Defendant's failure to hire Plaintiff Binney in the position of Non-Tenured Lecturer for the fall 2019 Comparing Politics Around the Globe course and selection of Elizabeth Pertner, a significantly younger, less qualified, less experienced individual, constituted a violation of the ADEA.

58. As a direct result of the aforesaid unlawful discriminatory employment practices engaged in by the Defendant in violation of the ADEA, Plaintiff Binney sustained permanent and irreparable harm, resulting in a loss of earnings, plus the value of certain benefits, plus loss of future earning power, plus back pay, and front pay, and interest due thereon.

COUNT XII
**(ADEA - Age Discrimination - Failure to Hire – Fall 2019 Comparing Politics
Around the Globe)**
Plaintiff Binney v. the Defendant

59. Plaintiff Binney incorporates by reference paragraphs 1 through 58 of this Complaint as though fully set forth at length herein.

60. The actions of the Defendant, through its agents, servants and employees, in subjecting Plaintiff Binney to discrimination based on his age, ultimately resulting in the Defendant's failure to hire Plaintiff Binney in the position of Non-Tenured Lecturer for the fall 2019 Comparing Politics Around the Globe course and selection of Qing Deng, a significantly younger, less qualified, less experienced individual, constituted a violation of the ADEA.

61. As a direct result of the aforesaid unlawful discriminatory employment practices engaged in by the Defendant in violation of the ADEA, Plaintiff Binney sustained permanent and irreparable harm, resulting in a loss of earnings, plus the value of certain benefits, plus loss of future earning power, plus back pay, and front pay, and interest due thereon.

COUNT XII
**(ADEA - Age Discrimination - Failure to Hire – Fall 2019 Scientific Study of
Politics)**
Plaintiff Binney v. the Defendant

62. Plaintiff Binney incorporates by reference paragraphs 1 through 61 of this Complaint as though fully set forth at length herein.

63. The actions of the Defendant, through its agents, servants and employees, in subjecting Plaintiff Binney to discrimination based on his age, ultimately resulting in the Defendant's failure to hire Plaintiff Binney in the position of Non-Tenured Lecturer for the fall 2019 Scientific Study of Politics course and selection of Joseph Phillips, a significantly younger, less qualified, less experienced individual, constituted a violation of the ADEA.

64. As a direct result of the aforesaid unlawful discriminatory employment practices engaged in by the Defendant in violation of the ADEA, Plaintiff Binney sustained permanent and irreparable harm, resulting in a loss of earnings, plus the value of certain benefits, plus loss of future earning power, plus back pay, and front pay, and interest due thereon.

PRAYER FOR RELIEF

65. Plaintiff Binney incorporates by reference paragraphs 1 through 64 of this Complaint as though fully set forth at length herein.

WHEREFORE, Plaintiff Binney requests that this Court enter judgment in his favor against the Defendant and Order that:

- a. Defendant compensate Plaintiff Binney for the wages and other benefits and emoluments of employment lost, because of its unlawful conduct;
- b. Defendant compensate Plaintiff Binney with an award of front pay, if appropriate;
- c. Defendant pay to Plaintiff Binney liquidated damages;
- d. Defendant pay to Plaintiff Binney pre and post judgment interest; costs of suit and attorney and expert witness fees as allowed by law;
- e. The Court award such other relief as is deemed just and proper.

JURY DEMAND

Plaintiff Binney demands a trial by jury.

SIDNEY L. GOLD & ASSOC., P.C.

By: /s/ Sidney L. Gold, Esquire
SIDNEY L. GOLD, ESQUIRE
I.D. No.: 21374
1835 Market Street, Suite 515
Philadelphia, PA 19103
(215) 569-1999
Attorney for Plaintiff

DATED: 07/23/2021

VERIFICATION

I hereby verify that the statements contained in the attached Complaint are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of Title 18 Pa. C.S.A. §4904, relating to unsworn falsification to authorities.

DATE: 07/22/2021

James William Binney
DR. JAMES BINNEY, PLAINTIFF